IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

LA.App..No. 787 of 2000(B)

LAR.17/1997 of SUB COURT, PALA
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APPELLANT:

STATE OF KERALA.

BY GOVERNMENT PLEADER SRI.K.V.MANOJKUMAR.

RESPONDENTS:

VALSAMMA THOMAS,
PAZHAYAPURACKAL,
ARUNAPURAM KARA,
PULIYANNOOR VILLAGE.

BY ADV. SRI.JAMES KURIAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON ON 15.10.2007 ALONG WITH LAA 1246/2000, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. Nos.787 & 1246 OF 2000

Dated 15th October, 2007.

J U D G M E N T

Harun-Ul-Rashid, J.

The above appeals arise from the judgments and decrees dated 9.11.1999 and 28.3.2000 in LAR Nos.17/97 and 59/97 respectively on the file of the Sub Court, Pala. An extent of 12.60 Ares of dry land and 11.60 Ares of dry land involved in the above LAR cases are acquired for the purpose of widening Ettumanoor-Erattupetta road. The Land Acquisition Officer fixed the land value at the rate of Rs.13,600/- per Are and Rs.15,185/- per Are respectively in LAR Nos.17/97 and 59/97. The court below enhanced and refixed the same at the rate of Rs.27,200/- per Are and Rs.30,370/- per Are respectively.

2. In LAR 17/97, in support of the claim for compensation, the claimant produced Exts.A1 to A4 documents and examined AWs.1 to 7. The respondent produced Ext.R1. The court below found that Exts.A1 to A4 documents are not comparable to arrive at the compensation payable for the acquired land, since those documents clearly show that the land value awarded was higher than that awarded at the time of

notification. After rejecting the claim on the basis of Exts.A1 to A4, the court below proceeded to refix the land value by granting cent percent enhancement without stating any reasons.

3. In LAR 59/97, the court below found that there is no satisfactory evidence on record to prove the alleged advantages and potentialities of the land except the highly self-serving testimony of AW1 which cannot be relied upon for the above purpose. After making such an observation, the court below proceeded further and fixed the land value by granting almost cent percent enhancement, stating that such an enhancement was made in identical cases. We have noticed the fact that no identical cases or judgments, or property similarly situated, for which judgment was rendered was before the court for granting cent percent enhancement. At any rate, no reference is made by the court below about the cases in which cent percent enhancement was granted.

4. In the above circumstances, we find that there is no basis for the court below to grant cent percent enhancement without any supporting evidence or datas to arrive at. Therefore, we are of the view that the fixation of land value by the court

below is not just and proper. Accordingly, the judgments and decrees under appeal are set aside. The cases are remanded to the court below for fresh consideration in accordance with law.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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KURIAN JOSEPH &

HARUN-UL-RASHID, JJ

L.A.A. Nos.787 & 1246 OF 2000

J U D G M E N T

Dated 15th October, 2007.